

REMARKS:

I. Amendment to the Title

Applicant respectfully asks that the title be amended from the title reported on the Notice of Allowance – “Animated Toy Utilizing Artificial Intelligence and Fingerprint Verification,” to the title that the Applicant intended and which comports with the specification – “Animated Toy Utilizing Artificial Intelligence and Facial Image Recognition.”

The reason why this Amendment was not earlier presented is because the cover sheet associated with the copy of the specification in the undersigned’s file differed from the cover sheet associated with the copy of the specification in the PTO’s possession. The undersigned – who took over prosecution of the application from the attorney who had originally filed it – was unaware of this discrepancy until he received the Notice of Allowance, which had the “Fingerprint Verification” language in the title.

Recognizing this discrepancy, the undersigned ordered a copy of the specification filed with the PTO. Much to the undersigned’s relief, comparison of the remainder of the specification (the field of the invention, the background section, the summary section, the brief description of the drawings, the detailed description, the claims, the abstract, and the drawings) does not reveal any other discrepancies – the text, page and line numbers appear to be identical.

The Examiner will note that the first page of the specification (not the cover sheet) has the Applicants’ intended title – “Animated Toy Utilizing Artificial Intelligence and Facial Image Recognition.”

II. Supplemental Declaration

Even though the differences between the undersigned’s copy and the PTO’s copy are trivial, the undersigned has forwarded the inventors a copy of the PTO’s version of the application, together with the claims set forth in the Examiner’s Notice of Allowance, for their review. Out of an abundance of caution, and to pre-empt any argument that the original declaration was defective because of the title discrepancy, a supplemental declaration signed by the two inventors is submitted herewith, pursuant to 37 C.F.R. § 1.67(a).

III. Claim of Priority to the Provisional Application

Finally, Applicants wish to confirm that the Amendment to the Specification – to claim priority to the provisional application – set forth in Paper # 8 (i.e., the Response, dated May 12, 2003, to the January 16, 2003 Office Action) has been entered. As noted on page 5 of that Response, 37 C.F.R. § 1.78(a)(5) permits amendment of a non-provisional application to include a claim of priority. Furthermore, please note that

Appl. No. 09/488,390
Amdt. dated March 29, 2006
After Allowance Amendment

section 1.78's deadlines for making such amendments do not apply to this case because this application was filed before November 29, 2000. *See* 37 C.F.R. § 1.78(a)(5)(ii)(A) (**"The time periods in this paragraph do not apply if the later-filed application is: (A) An application filed under 35 U.S.C. 111(a) before November 29, 2000."**). Applicants would further note that the filing receipt for this application – mailed on March 20, 2000 – states that "THIS APPLN CLAIMS BENEFIT OF 60/116,391 01/19/1999."

Conclusion

The Applicants and the undersigned thank the Examiner for his patience and respectfully ask that the Examiner amend the title as set forth herein. If the Examiner has any questions concerning the matters raised herein, please do not hesitate to contact the undersigned.

Although no fees are believed to be required for this amendment, the Commissioner is authorized to charge any necessary fees to Gunn & Lee's deposit account no. 500808.

Respectfully submitted,



Eric W. Cernyar
Reg. No. 45,919
Gunn & Lee, P.C.
700 N. St. Mary's St. Ste 1500
San Antonio, TX 78205
(210) 886-9500 (phone)
(210) 886-9883 (fax)
(210) 863-0063 (cell phone)